

**IN THE MATTER OF:
LUTES-BRIGGS COMMUNITY SIDEWALK PROPOSAL**

CIP Project No. 0506747 / Annual Sidewalk Program

BEFORE: Jose Thommana, Hearing Officer, Department of Transportation

PUBLIC HEARING OFFICER'S RECOMMENDATION

I. BACKGROUND

The Montgomery County Department of Transportation (MCDOT) proposed to construct a network of sidewalks that will provide safer pedestrian travel along the following roadways in Silver Spring, Maryland:

- North side of **Briggs Road** from the existing sidewalk to **Lutes Lane**;
- West side of **Lutes Drive** from **Briggs Road** to **Dressler Lane**;
- West side of **Wilton Oaks Drive** from **Briggs Road** to **Mumford Drive**;
- East side of **Ewood Lane** from **Briggs Road** to **Victor Court**; West side of **Ideal Drive** from **Briggs Road** to **Victor Court**;
- South side of **Victor Court** from **Ewood Lane** to **Ideal Drive**;
- West side of **Disney Lane** from **Briggs Road** to the **End of Disney Lane**.

This project is located in the Lutes-Briggs community of Silver Spring, within the thirteenth election district of Montgomery County, Maryland. The proposed sidewalk will be a five-foot wide concrete sidewalk with a variable greenspace of zero to four feet.

Displays were presented at the public hearing showing the proposed sidewalk relative to the existing network of sidewalks, houses of religion, and nearby Ride-On bus stops. Additional displays

revealed a typical cross-section of pavement and sidewalk for each proposed, above-referenced roadway demonstrating the amount of public right-of-way available for construction of the sidewalks.

This project will cost an estimated \$930,612.60, including administrative and construction inspection costs. It will be funded through the County's Annual Sidewalk Program – CIP No. 0506747. No properties are considered to be specially benefitted by the project, and, therefore, no properties are expected to be assessed.

Pursuant to Section 49-53 of the Montgomery County Code, and due to the COVID-19 pandemic, a virtual public hearing was scheduled on June 17, 2020 at 7pm. Public notice of the hearing was provided to adjacent property owners, as well as those neighboring across the street. Notice to the public was, likewise, published in the Washington Post on May 25th and June 9th, and was, additionally, posted on MCDOT's web calendar and was the subject of a Montgomery County government press release circulated on May 22, 2020.

The virtual hearing was recorded and may be viewed at:

https://montgomerycounty.adobeconnect.com/pha9dmo3q0uv/?OWASP_CSRFTOKEN=5293cc89592bdf6ca76f7069e3030a975a50253b9a1236fb6120decd5cbe798 . Following the hearing, the public record was held open until 6:00 p.m. on Wednesday, July 8, 2020, to allow for written testimony to be submitted.

II. SUMMARY OF TESTIMONY, WRITTEN COMMENTS AND EXHIBITS

A. Project Description

A description of the proposed sidewalk project was presented by Tim Cupples, Chief of MCDOT's Division of Transportation Engineering. The Lutes-Briggs sidewalk proposal was prompted by the July 25, 2017 meeting between members of the Lutes-Briggs community, Bruce Johnston, former Chief of the Division of Transportation Engineering, and Bertha Flores of Councilmember Nancy

Navarro's office. Thereafter, on February 15, 2018, the Annual Sidewalk Program received a request for sidewalk installation accompanied by a petition in support of sidewalk installation signed by 114 residents. The petition discussed the fact that both Lutes Drive and Briggs Road are "major feeder roads to the neighborhoods between Layhill Road and Georgia Avenue," which experience a great deal of traffic, particularly since the community is within a mile of the Glenmont Metro station and two miles south of the ICC. The petition goes on to explain the great need for sidewalk installation, stating:

"Given the increase in traffic, pedestrians walking along the side of the road put themselves at considerable risk. Which neighborhood residents walk along Briggs Road and Lutes Drive? Commuters headed for the nearby Glenmont Metro or [Ride-On] bus routes on Layhill [Road], students attending Kennedy High School, families using the Glenfield Park playground, families waiting for school buses, worshipers attending the Pilgrim Church, and those walking for exercise. The proposed sidewalks would considerably increase pedestrian safety and encourage more people to walk rather than drive."

Mr. Cupples described the project's history and the improved safety that would be created for the entire community. As discussed in the community's petition, he explained how the proposed sidewalks will provide safer access for commuters utilizing the County's Ride-On buses, stops for which are located along Layhill Road. Mr. Cupples also discussed the improved safety the sidewalks will provide for residents walking to and from the Glenmont Metro station, local churches, MCPS bus stops, John F. Kennedy High School and local amenities such as the Glenfield Park.

Mr. Cupples provided a project vicinity map showing approximately 7,491 linear feet of proposed sidewalk in the Lutes-Briggs community of Silver Spring. The roadways making up the Lute-Briggs Community Sidewalk Proposal offer the following rights-of-way dedicated for public use:

- Briggs Road has 60-feet of available right-of-way;
- Lutes Drive has 40-feet of available right-of-way;
- Wilton Oaks Lane has 60-feet of available right-of-way;
- Disney Lane has 50-feet of available right-of-way;
- Ewood Lane has 50-feet of available right-of-way;
- Victor Court has 60-feet of available right-of-way;
- Ideal Drive has 60-feet of available right-of-way.

B. Testimony and Written Comments

The Lutes-Briggs Community Sidewalk Proposal was very well received by the community. While some residents only supported sidewalk installation on the two major roadways, Briggs Road and Lutes Drive, most supported the proposal as a whole and expressed excited anticipation of the potential sidewalks. As is true of many of the Annual Sidewalk Program's proposals, most that did oppose the initiative wrote in discussing tree loss, the loss of available parking and snow shoveling responsibilities. This is particularly true with regard to the smaller, residential streets specifically Wilton Oaks Drive and Disney Lane. For example, the resident of 13102 Wilton Oaks Drive commented:

“Briggs Road needs a sidewalk. It is very dangerous to walk on Briggs Road.

Lutes [Lane] needs a sidewalk as it is also dangerous to walk on.

No sidewalk on Wilton Oaks. Too many trees will be cut. . . .”

The resident at 13208 Wilton Oaks Drive commented in support of sidewalk installation on Briggs Road and Lutes Drive only stating:

“We have lived on Wilton Oaks for 32 years, raised two daughters here, and have spent many hours walking on this street. We have reviewed the information provided by Montgomery County and the input of residents to date and recommend that sidewalks be installed as planned along Briggs Road and Lutes [Lane] but not on the other residential streets in the study area. . . .

The negative impacts of building sidewalks on the smaller residential streets will outweigh any potential benefits. Given the relatively small number of cars using those streets and the small number of people walking, the use of the street for pedestrians does not pose a problem. Both drivers and pedestrians must be aware of each other[,] but it is easy to avoid conflicts.”

The resident at 13003 Disney Lane wrote in regarding loss of landscaping planted in the right-of-way and costly repairs to plumbing pipes located underground in the fronts of Disney Lane yards:

“ . . . We are writing to say that we do not want sidewalks in front of our house or on our street. We do not want our yard, driveway, mailbox and trees on our property and street disturbed. We personally planted the trees and shrubs on our property and would consider it an injustice if the trees and land on our property were disturbed and replaced by concrete . . . we have water pipes in our front yard that we do not want covered by a

concrete sidewalk which would increase the cost of replacing water pipes in our yard when repairs need to be made.

We have seen an increase in foot traffic on Disney Lane from visitors who leave trash and dog poop in our yard and an increase of theft from properties on our street. In addition, our neighbors across the street use the edge of their yard for parking and a sidewalk would take up space that is used for parking and prevent our neighbors from parking in front of their houses.”

In her written testimony, the same Disney Lane resident gave further explanation regarding ongoing repairs to the water pipes buried in the front lawns of Disney Lane, explaining:

“Because of the chemicals WSSC has admitted to using in the water system, many residents in older neighborhoods, such as Disney Lane, have experienced pinhole leaks in their copper pipes which are buried in the front yard and will be in need of repair.”

During discussions had following the public hearing, Frank Kingsley, Manager of the Annual Sidewalk Program, confirmed that, if approved, the construction of the Disney Lane sidewalk can be deferred until repairs have been completed.

In contrast, many residents expressed their support for the Lutes-Briggs Community Sidewalk Proposal in full. For example, in response to testimony given at the hearing that only Briggs Road and Lutes Drive necessitate the installation of sidewalk, a resident at 13012 Wilton Oaks Drive testified as follows:

“During the recent testimony hearing for the proposed sidewalks in the Briggs-Lutes neighborhood, one of the residents requested no sidewalk be built along Wilton Oaks Drive. The argument was based in part on the misperception that there is not much traffic on Wilton Oaks, . . .

Wilton Oaks is home to multi-generational and multi-family residents with multiple cars per home with many cars parked on the street. We have many young families moving in, resulting in an increased population of children in the street. With the increase of traffic, pedestrians walking in the road, often in the middle of the road to pass parked cars, put themselves at considerable risk. The parked cars also make it challenging for drivers to be aware of pedestrians, especially children, about to enter the roadway.”

Other proponents of the full proposal include residents at 13013 Wilton Oaks Drive, who commented:

“I would like to submit my comments in **full support** of the proposed sidewalk plan. My wife and I moved to 13013 Wilton Oaks [in] July 2018. Shortly after, we had our first child. Immediately we realized how unsafe it is to walk with a stroller on the road to go to the park. We have also noticed how unsafe it is for children walking to the bus to go to school. The road is already quite narrow as it is, so any additional safety measures for pedestrians would be greatly appreciated.

Likewise, residents at 13112 Ewood Lane wrote:

“Thanks for your Wonderful Project . . . Absolutely, definitely agree for making the sidewalk leading by walk to reach bus station at major thoroughway, Layhill Road. No concern!”

Ideal Drive was also supported when a resident of 13103 Ideal Drive wrote:

“I think this is a fine idea[,] and support the proposed plan. I am frequently a pedestrian in the neighborhood and the lack of sidewalks means people walking in the street all the time.

No comments for or against the sidewalk proposal were received from residents on Victor Court.

III. ANSWERS TO FEEDBACK and CHANGES TO THE PROPOSAL

Of great concern to many who opposed all, or part of the proposed sidewalks is the amount of trees to be removed. Sixty-two trees will be removed from the subdivision to make way for the sidewalks. To compensate for the removal of trees, MCDOT plants 3 trees for every one tree removed, or a total of one-hundred eighty-six trees (186) to be planted throughout the Lutes-Briggs community following the installation of sidewalks.

During the public hearing, the responsibility of snow and ice removal was questioned by one or more residents. To confirm, residents are responsible for removing snow and ice on any sidewalk, other walkway on or adjacent to property that the person owns, leases, or manages, including any walkway in the public right-of-way, to provide a pathway wide enough for safe pedestrian and wheelchair use within 24 hours after the end of the precipitation that caused the condition. Residents may choose to wait to remove the snow and ice until after the road has been plowed so as not to duplicate efforts.

In the days following the June 17th public hearing, the Annual Sidewalk Program received an inquiry regarding the asphalt path between Lutes Drive and Briggs Road. The resident explained that the path is currently 3-feet-wide and littered with dips and trip hazards. In addition, the resident advised that the entry to the path from Lutes Drive has drainage issues resulting in standing water after each heavy rain. In addition to the proposed sidewalks, the path will be repaved with 5-foot-wide asphalt, ensuring that it is ADA-complaint. In addition, the Annual Sidewalk Program is working in unison with Montgomery County's Drainage Assistance Program to alleviate the drainage issue at the Lutes Drive entrance to the path.

As previously mentioned, the resident at 13003 Disney Lane expressed concern that the installation of sidewalk on Disney Lane would augment costs of repairs to underground pipes damaged by chemical treatments utilized by the Washington Suburban Sanitary Commission (WSS). When this Hearing Officer checked with WSSC regarding potential repairs to the damaged underground pipes on Disney Lane, no planned projects for reparations were noted. Because the subdivision is under moratorium through November 30, 2020, WSSC is precluded from making pavement cuts and, hence, performing the repairs to the underground pipes. MCDOT, therefore, requests that residents planning to undertake and pay for reparations to the underground pipes coordinate any repair plans with the Annual Sidewalk Program.

IV. CONCLUSIONS AND RECOMMENDATIONS

The purpose of conducting a public hearing, as well as the comment period which follows, is to provide sound, factual information. The information collected is used to prepare a recommendation which is presented to the Director of the Department of Transportation. The Director reviews the

recommendation and determines a final decision based on the public need and appropriateness of the project.

It is very common for sidewalk projects to raise diverse views on the necessity for construction of sidewalks. The opposition to sidewalk installation generally includes concern over an increase in responsibility and liability in inclement weather, the reduction of front lawns and driveways of impacted properties where the sidewalk is proposed, the impact to trees and other landscaping, the addition of impervious surfaces, the impact to the aesthetics of the community, etc. The proposed sidewalks in the Lutes-Briggs community are no exception.

In my opinion, however, the public interest for the proposed project *is* adequately demonstrated. “Public interest” is a broad concept that manifests itself in a variety of contexts. When a construction project is involved, the project will be considered to be in the public interest if it will do such things as promote the general health and safety of the citizenry, protect the environment, preserve open space or otherwise advance the community’s quality of life. This includes providing for the safe and efficient flow of vehicular and pedestrian traffic. The County has, in recent years, focused on the need for pedestrian safety through the creation of a pedestrian safety task force and the tracking of pedestrian safety data through CountyStat. Sidewalks are an established means of reducing pedestrian-vehicle conflicts.

This sidewalk project is proposed under the Annual Sidewalk Program, which is a continuing program to provide pedestrian facilities throughout the County. Though written comments and testimony offered for the project reflect some opposition from impacted residents, exhibits and supporting comments from the community provide adequate justification to establish that constructing the proposed sidewalks will create a safer mode of travel for all pedestrians. The sidewalks will provide

a clear-cut and firm separation between the roadway and pedestrian travel. The sidewalks will be constructed entirely within the public right-of-way without needing acquisition of additional property.

The proposed sidewalk will give the entire community a safe option for pedestrian travel, connecting the pre-existing network of sidewalks on and east of Layhill Road. The sidewalks will complete the network, providing safe connections to county and school bus stops, area churches, John F. Kennedy High School, and amenities such as the Glenmont Metro station, the Glenfield Park and the Glenmont Shopping Center.

Upon thorough review of all the testimony and evidence presented in the public record, I conclude that there is sufficient basis to find that the Lutes-Briggs Community Sidewalk Proposal project will be in the best interest of the public. I, therefore, recommend that the Director of the Department of Transportation authorize the project be constructed by MCDOT as modified herein.


Respectfully submitted,



Jose Thommana
Public Hearing Officer

The Public Hearing Officer's Report and Recommendation for construction of the Lutes-Briggs Community sidewalk project has been reviewed and the project is hereby authorized for construction.

Date: 9/3/2020



Christopher Conklin, Director
Department of Transportation